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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,579	08/04/2003	David Roth	63573-5001	6979

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 LOS ANGELES, CA 90067

EXAMINER

YEAGLEY, DANIEL S

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/634,579

Applicant(s)

ROTH ET AL.

Examiner

Daniel Yeagley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 and 18-31 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 and 27-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-16, 18-26 and 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 9 and 13 – 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Lan '652.

Lan shows a scooter comprising a standing platform 6 supported by a fuselage (figure 5) and having a rear wheel rotatably mounted at a rear portion of the fuselage 4 with a transmission system mounted under the standing platform in the rear portion of the fuselage (figure 2), wherein the transmission system comprising a motor with a wheel engagement element being operatively coupled with the rear wheel (figure 2, column 1, line 19-20) and wherein the fuselage is tubular in shape with a U-shaped cross-section, such that a floor pan portion has a shape and the battery system comprises a battery that is shaped to conform to the shape of the floor pan and mounted in the fuselage under the standing platform.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 10 – 12, 17 – 22 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lan '652 in view of Tiede '044.

Lan discloses a motor propelled two wheeled vehicle (scooter) having a transmission system having a motor and wheel engagement element operatively coupled with a rear wheel and mounted under a standing platform in the rear portion of a fuselage (figure 6), but failed to disclose the wheel engagement element being a cone shaped and engaging the sidewall of the wheel and failed to disclose a second parallel motor and wheel engagement element with a motor shaft parallel with a longitudinal axis of the fuselage.

Tiede shows a motor propelled two wheeled vehicle comprising a transmission system having parallel motors and first and second wheel engagement elements, wherein the motor is mounted with the shafts parallel with a longitudinal axis of the vehicle, wherein the wheel engagement element is cone shaped and is shown engaging the sidewalls of a wheel (figure 5), wherein the transmission system includes a hinged mechanism (figure 5, column 1) that controls the contact between the wheel engagement element and the wheel that is operable by a cable to control the contact between the wheel engagement element and the wheel by normally positioning the hinged mechanism in an engaged or disengaged state (column 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the transmission system of Lan motor driven scooter with an alternative transmission system, for example; a transmission system that utilizing parallel mounted and hinged controlled drive means that incorporate cone shaped wheel engagement elements to engage side walls of a driven wheel in order to propel the vehicle as taught by Tiede transmission system for driving a wheel.

*Allowable Subject Matter*

5. Claims 23 – 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

6. Applicant's arguments filed 6/13/05 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the feature of a motor having a shaft, where the motor is mounted so the shaft is parallel with a longitudinal axis running from the front portion to the rear portion of the fuselage) are not recited in the rejected claim(s) and further as broadly read the limitation is not shown or described in the specification as having a motor shaft that is parallel with a longitudinal axis that runs from the front portion to the rear portion of the fuselage, but only shows a motor shaft that is parallel to a longitudinal axis of the vehicle. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

*Conclusion*

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is (571)-272-6655. The examiner can normally be reached on Mon. - Fri; first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on (571) - 272 - 6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D.Y.

  
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